

# **Exhibit 16**

## **August 14, 2020 Hearing Transcript**

1 UNITED STATES DISTRICT COURT  
 2 DISTRICT OF NEVADA  
 3 BEFORE THE HONORABLE CARLA L. BALDWIN, MAGISTRATE JUDGE  
 4 ---o0o---

4 Tesla, Inc., : No. 3:18-cv-0296-MMD-CLB  
 5 :  
 6 Plaintiff, :  
 7 : August 14, 2020  
 8 -vs- :  
 9 :  
 10 Martin Tripp, : United States District Court  
 11 : 400 S. Virginia Street  
 12 Defendant. : Reno, Nevada 89501  
 13 :  
 14 \_\_\_\_\_:

11 **TRANSCRIPT OF MOTION HEARING**

13 A P P E A R A N C E S:

14 FOR THE PLAINTIFF: Alexander Spiro  
 15 Jeanine Zalduendo  
 16 Michael Lifrak  
 17 Attorneys at Law

17 FOR THE DEFENDANT: William Fischbach  
 18 Robert Mitchell  
 19 Attorneys at Law

19 FOR THE DEFENDANT: Martin Tripp  
 20

21 **CLB/FTR: 081420@7:02am**

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 23 computer-aided transcript

24 Transcribed by: KATHRYN M. FRENCH, RPR, CCR  
 25 NEVADA LICENSE NO. 392  
 CALIFORNIA LICENSE NO. 8536

1 Reno, Nevada, Friday, August 14, 2020, 7:02 a.m.

2 ---OoO---

3

4 THE CLERK: The United States District Court  
5 for the District of Nevada is now in session. The  
6 Honorable Carla Baldwin presiding.

7 This is the date set for a video Status  
8 Conference in case number 18:cv-0296-MMD-CLB, Tesla,  
9 Inc. versus Martin Tripp.

10 Present by video on behalf of plaintiff,  
11 Alexander Spiro, Jeanine Zalduendo and Michael Lifrak.

12 Present by video on behalf of defendant,  
13 William Fischbach, Robert Mitchell.

14 And also present by video, Martin Tripp.

15 THE COURT: Okay. Good morning, everybody.  
16 We are here for a Status Conference related to the  
17 emergency motion that was filed by Tesla, I believe day  
18 before yesterday. Let me just go around the room. I  
19 think it would be helpful if I had everybody introduce  
20 themselves. I think this is the first time I've  
21 actually seen some of you in person.

22 So, I'll go ahead with Tesla's attorneys.  
23 If you could just go ahead and introduce yourselves for  
24 the record, please.

25 MR. SPIRO: Good morning, Your Honor. This

1 is Alex Spiro.

2 THE COURT: Okay. Thank you.

3 MR. LIFRAK: Good morning, Your Honor, this  
4 is Michael Lifrak.

5 UNIDENTIFIED SPEAKER: (Unintelligible.)

6 THE COURT: Okay. I think we have some  
7 people on the call, so I'm going to make it very clear  
8 to everybody that you need to put your phones on mute.  
9 If we have extensive background information and noise,  
10 we will be disconnecting the call.

11 UNIDENTIFIED SPEAKER: (Unintelligible.)

12 THE COURT: Okay. I'm only going to give  
13 one warning for that. So everybody understands, if  
14 you're on the call to listen to this hearing, if you  
15 continue to interrupt, we will disconnect the call.

16 So, let me go ahead and turn to Mr. Tripp's  
17 attorneys. I believe you're sitting in a conference  
18 table. If you could go ahead and introduce yourselves  
19 please.

20 MR. FISCHBACH: Good morning, judge.  
21 William Fischbach here.

22 MR. MITCHELL: And good morning, Your Honor.  
23 Robert Mitchell.

24 THE COURT: Okay.

25 And Mr. Tripp, is that you, sir?

1 MR. TRIPP: Yes.

2 THE COURT: Very nice to see you. What time  
3 is it where you're at, sir?

4 MR. TRIPP: 4:00 p.m.

5 THE COURT: Okay. Well, I tried to set this  
6 at a time when it was somewhat of a decent hour for all  
7 of us. For those of us on the West Coast, it's a little  
8 early. But, I'm glad that we were able to get everybody  
9 here together.

10 I'm going to go through several things  
11 because, to be honest with you, Mr. Tripp, I think  
12 there's been, um -- like they said in Cool Hand Luke,  
13 "sort of a failure to communicate." So, I think it's  
14 going to be important for you to, sort of, understand  
15 where we're at, um, for me to explain, sort of, the  
16 process of how we got to where we are today, and to  
17 go through several things because I'm not entirely  
18 confident that you either were given the information or  
19 that it was explained in a way that was understandable,  
20 and so we're going to go through several things today.

21 Okay, sir?

22 MR. TRIPP: Yes. That is fine.

23 THE COURT: Okay.

24 MR. TRIPP: Appreciate that.

25 THE COURT: I will also be asking you at

1 several points if you have any questions or  
2 clarifications, as I will to Tesla's counsel. But  
3 just so you know, if you have any questions and I'm  
4 speaking with anybody else, just hold on and I will  
5 get to you for you to follow-up.

6 Okay. Is there any questions about that,  
7 sir?

8 MR. TRIPP: Uh, no, there's not.

9 And I'm sorry. I'm having to mute and  
10 unmute, so it might take me a split second to respond.

11 THE COURT: No. I appreciate that. Thank  
12 you very much.

13 Okay. So the first thing I want to talk  
14 about is the Motion to Withdraw Counsel. Sir, one thing  
15 to understand is that you currently have what we call,  
16 um, counsel of record in this case.

17 Now I know that there has been a disconnect  
18 and an agreement, maybe, between you and your attorneys  
19 that they will no longer be representing you, but for  
20 purposes of the litigation, until the Court actually  
21 enters an Order of Withdrawal, they remain your counsel.  
22 And when you have an attorney, the Court speaks to your  
23 lawyers and only your lawyers. So, with that motion to  
24 withdraw being on file, but it hasn't been granted yet,  
25 technically, they are still your counsel of record.

1           Okay. Is there somebody on the call that  
2 has not muted their phone call because, again, if I have  
3 to ask this again, we will be disconnecting the call.  
4 Please mute your phones.

5           All right. So with that being said, sir,  
6 your attorney have filed a motion to withdraw at ECF  
7 docket number 202. I had ordered that in our Local  
8 Rules you actually have the ability to object or to  
9 file an opposition to that. And I have to give you the  
10 opportunity to do that, but I figured it might just make  
11 sense to go ahead and cut to the chase and ask you on  
12 the record if you have any objection to the withdrawal  
13 of your counsel here today, sir?

14           MR. TRIPP: I do not.

15           THE COURT: Okay.

16           And let me turn to Mr. Spiro. Do you have  
17 any objection, at this time, sir, to the withdrawal of  
18 Mr. Fischbach and Mr. Mitchell?

19           MR. SPIRO: I do not, Your Honor.

20           THE COURT: Okay.

21           So, I am going to grant the Motion to  
22 Withdraw with the caveat that the attorney eyes only  
23 documents will remain in their possession for the time  
24 being. I will address that at a later time. But for  
25 right now, until we have the issues around the

1 protective order resolved, I'm going to go ahead and  
2 just keep the status quo as it relates to those  
3 documents.

4 So Mr. Fischbach and Mr. Mitchell, you're  
5 welcome to stay on the call, but if you would like to  
6 disconnect, you can go ahead and do that. You are  
7 formally withdrawn from this case.

8 UNIDENTIFIED SPEAKER: Thank you, judge.  
9 I'd like to stay, if that's all right.

10 THE COURT: Sure. That sounds good to me.

11 All right. So, moving on. We have a lot of  
12 issues going on in this case, obviously, and there's a  
13 lot of ways that that could be dealt with. You know, I  
14 think that there's probably a lot of people expecting  
15 that the Court's going to come out and be really upset  
16 and be really angry and do a lot of things. But, that's  
17 just not how I roll.

18 So, what I would like to do before we get  
19 into all of that is, like I said, I want to have a  
20 discussion about some of how we got to where we're at  
21 because, to be totally honest, Mr. Tripp, I have a  
22 feeling that there is some, some genuine disconnect  
23 and misunderstanding about some of the things that have  
24 been going on in this case. Um, I will tell you that  
25 you have -- and as I know you know -- you have violated



1 the Protective Order that's in place in this case,  
2 including an order that I entered on Monday. I have  
3 never seen anything like it. I don't think any of my  
4 colleagues have seen anything like it. But, I'll be  
5 honest with you. I can tell from what I've seen of  
6 your Twitter feed that a lot of it comes from a place  
7 of frustration. It appears to me that you're not  
8 being listened to and, most importantly, you're not  
9 being heard. And so we're going to change that today.  
10 Okay?

11 So, let me start out with explaining how we  
12 got to where we're at with the Protective Order because  
13 I do think that there is some confusion about that. And  
14 it might even be helpful for some of Tesla's lawyers  
15 because they're new to this case as well. They weren't  
16 involved in that process.

17 So, after this case was filed in 2018 -- and  
18 to clarify, too, I think you had mentioned something  
19 about multiple judges being on your case. There was a  
20 judge assigned to your case originally, Judge Valerie  
21 Cooke, and she retired. She didn't withdraw. She  
22 retired. And so I took over.

23 Judge Hicks, who was assigned to your case,  
24 did recuse because there was the entry of some attorneys  
25 in this case that he has a recusal issue with. And so

1     when he realized that they had joined the case, he  
2     recused from that -- for that purpose. But, there  
3     hasn't been this mass exodus from your case on purpose  
4     or anything like that. So, just to clarify that for  
5     you. Okay?

6                 So when the case first was filed, obviously,  
7     it was assigned to Judge Cooke and then it got assigned  
8     to me when I took the bench. And I had a Case  
9     Management Conference, which is really just a hearing  
10    where I talk to the lawyers about how the case is  
11    going to proceed through discovery, depositions, um,  
12    document disclosures, and things like that. And there  
13    was an agreement that had been reached by your attorneys  
14    at the time, as well as Tesla's. And one of the primary  
15    concerns at that point was because this case emanates  
16    from the disclosure of confidential information. And  
17    then, apparently, there was some disclosure after the  
18    case was filed about having that happen again. And we  
19    actually had a very lengthy discussion at a hearing  
20    about what the terms of that Protective Order should  
21    look like and how we were going to implement that.

22                I think it's important to understand -- I  
23    think, you know, I know that I can --

24                         (Unintelligible speaking.)

25                THE COURT: Please mute your phones.

1 Lisa, if that happens again, we're going to  
2 disconnect.

3 THE CLERK: Yes, Your Honor.

4 THE COURT: Okay.

5 So, at any rate, back to this, Mr. Tripp,  
6 the reality was, is that we actually thought long and  
7 hard about this. And a Protective Order is not just  
8 intended to protect Tesla. There is information that  
9 would be disclosed, potentially, about your personal  
10 information, your address, your social security number,  
11 maybe financial information, if they asked for financial  
12 information related to, for example, damages or things  
13 of that nature. And there is a protection that needs to  
14 be in place for all parties because that information  
15 should not be made publically available. It shouldn't  
16 be turned over to people that aren't part of this.

17 And of course in this case, obviously,  
18 because Tesla has its corporate concerns, it, obviously,  
19 seems to be more for their purpose, but the reality  
20 is a Protective Order is there for all parties in the  
21 litigation. And so that order was -- once they had met  
22 agreement and I signed it, it became my Order. It was  
23 no longer just an agreement between the attorneys and  
24 yourself. It was an Order of the Court. And regardless  
25 of whether your attorneys remain in this case or not, it

1 is still an Order of the Court. If there is a request  
2 to have that altered or change because you're unhappy  
3 with what your counsel did in entering that Order, the  
4 way to address that is to file a motion and ask for  
5 that to be modified. But, it doesn't matter if your  
6 attorneys are involved or not because the Order is what  
7 it is. It is an Order of the Court. It is no longer  
8 just an agreement of the parties.

9 So do have any questions about that, sir, or  
10 how that came to be?

11 MR. TRIPP: No, I do not.

12 THE COURT: Okay.

13 So when we had our hearing earlier this  
14 week on the first emergency motion, I think there's  
15 some confusion about what the Court did, partly because  
16 you weren't here. And again, you were represented by  
17 counsel at that time. I received a motion to withdraw,  
18 I think, an hour before the hearing. So, really, I  
19 want to be clear. The Court didn't really enter any  
20 new orders. No one did anything different. All I did  
21 was reaffirm that we had the Protective Order and that  
22 there were provisions in that Protective Order that  
23 prohibited the disclosure of certain information. There  
24 was no attempt to create new orders that were, you know,  
25 intended to bypass your ability to talk to the Court

1 or give your response to what you had done. To the  
2 contrary, sir, I actually rejected the notion from  
3 Tesla to just hold you in contempt and sanction you at  
4 that point. And I'm not sure if you're aware of that.

5 So, a couple of the tweets, I know, talked  
6 about not getting due process, not being able to  
7 respond. And let me be very clear with you; that's  
8 actually not correct. What I did was reaffirm the  
9 Protective Order and then I issued an Order to Show  
10 Cause, where I specifically gave you a couple of weeks,  
11 actually, to file exactly what you feel that you need  
12 to file, which is a response, or an explanation of  
13 why you shouldn't be held in contempt and why you  
14 shouldn't be sanctioned. And instead of doing that on  
15 an emergency basis and only giving you a day or two to  
16 respond, I gave you extra time to do that because I knew  
17 you were getting rid of your attorneys, and that you  
18 were either going to represent yourself or need to find  
19 new attorneys, so it wouldn't be fair to make you do  
20 that in only a couple of days.

21 I then gave Tesla an opportunity to respond.  
22 But, I gave you the last word. You actually have the  
23 ability to file a reply brief to whatever they file.  
24 And then I also ordered a hearing, where we were going  
25 to have witnesses and have evidence taken before

1 anything was decided about what would happen.

2           The only reason I mention the issues of  
3 case-ending sanctions, which would be dismissals of  
4 counterclaims and things like that, was because it's  
5 important that you're on notice that all of the  
6 sanctions that are available could be so significant.  
7 If I don't put you on notice of that, then those  
8 sanctions can't be imposed and we would have to start  
9 all over and do it all over again. So for due process  
10 purposes, just so you're aware, my purpose was to make  
11 sure that you were on notice of all of the things that  
12 would be considered, and that you would have the full  
13 and fair opportunity to respond to that.

14           So, again, I think there is some lack  
15 of clarity and maybe some confusion of what happened  
16 and, as a result of that, I think it upset you quite  
17 significantly. So, I wanted to give you an opportunity  
18 to understand that because, again, I'm not sure what  
19 was communicated to you and, more importantly, I'm  
20 just not sure what all you understood or didn't, maybe,  
21 understand from all of that.

22           So, does that help clarify what happened  
23 earlier this week, sir?

24           MR. TRIPP: It certainly does, Your Honor.  
25 And I appreciate it. It makes much more sense than it

1 did hours ago.

2 THE COURT: Okay. All right. Well, I'm  
3 glad to hear that.

4 So, the only new thing that I did enter on  
5 that Order was that I asked that you not contact Tesla's  
6 attorneys. And I did that for two reasons. First  
7 because the attorneys felt that the communications they  
8 were receiving were threatening. Now whether you  
9 intended them to be threatening or not, or whether  
10 that's how you think they were intend -- or read, it's  
11 a little irrelevant in the sense that that's how they  
12 felt when they received them. So, to make sure that no  
13 one felt that way, I put that Order in place.

14 But, the second thing that I think is  
15 important for you to understand is, again, because you  
16 were represented by counsel, the Rules of Professional  
17 Conduct for attorneys in Nevada -- which these  
18 attorneys, even if they're not from Nevada are bound  
19 by in this case -- prohibits them from talking to a  
20 represented party. So, if they were to have to talked  
21 to you, it would have violated their professional ethics  
22 responsibilities.

23 So, to ensure that they weren't put in an  
24 awkward spot, where they might be violating a rule by  
25 talking to you when you're, technically, represented, my

1 ruling was just simply not to talk to you and you not  
2 make contact with them until I ruled on the Motion to  
3 Withdraw.

4 So, that was the only real alternate  
5 decision -- or new part of any kind of Order that was  
6 entered on Monday was, really, that. And then, of  
7 course, I entered the Order to Show Cause with the  
8 time frames for responses and setting the evidentiary  
9 hearing.

10 But in terms of the Protective Order and  
11 your ability to respond and to be able to say your side  
12 of the story, all of that was all available. And like I  
13 said, I think there was some confusion about that. And  
14 so I'm not sure how that happened, but I think that's  
15 what fueled some of the fire over the last couple of  
16 days. So, I wanted to make sure that we clarified that  
17 for you. Okay, sir?

18 So do you have any questions about, about  
19 any of that or anything that I've just said?

20 MR. TRIPP: No, I do not. Thank you.

21 THE COURT: Okay. Thank you so much.

22 Now, let's get to the skinny; why we're here  
23 today. So we're here today because, obviously, um, I  
24 think fairly clearly, and as I've already stated, you  
25 have decided to disclose information that was protected



1 by the Protective Order in this case in violation of my  
2 Order and, again, of my Order of Monday. And you've  
3 chosen to do that with, quite clearly, knowing the terms  
4 of those orders and recognizing that by doing so, that  
5 you may very likely will be sanctioned for that.

6 But, I think it's important to understand  
7 that everybody here is upset. Tesla is upset. Tesla's  
8 attorneys are upset. You are, clearly, upset. I could  
9 be upset, but, to be honest with you, I've had so many  
10 people say some of the things that said on Twitter about  
11 me before. It really doesn't affect me too much, to be  
12 honest with you. I've had so many people tell me to  
13 F' off or shove something in a dark place that, really,  
14 it doesn't affect me too much anymore. So, no worries  
15 for me. But I will get to the issues of how that  
16 impacts, legally, what's going on in this case.

17 But, I think it's important for you to  
18 understand from Tesla's perspective, that the reason  
19 why they're so upset, it's not just the disclosure of  
20 the documents. I think their attorneys are upset  
21 because the fact that you took to Twitter and put their  
22 names and their e-mails and their personal information,  
23 in terms of where they work, online, resulted in a lot  
24 of phone calls and e-mails. And to be honest with you,  
25 it puts people's safety at risk. Even if you don't

1 intend to do anything bad, you don't know what the  
2 followers that you have on Twitter might do. And in a  
3 world where we have people showing up at people's doors  
4 and shooting and doing all of these things, I think  
5 they're quite upset about that. And there was a  
6 reference to that at our hearing earlier this week,  
7 about the phone calls and the communications that they  
8 were getting because that information was put on  
9 Twitter.

10 And I know, from what you've said, that the  
11 reason you're disclosing this is because you want people  
12 to be safe and to know what they're doing when they're  
13 buying a Tesla, I have to think that you may not be,  
14 um, quite aware of the safety concerns that have been  
15 impacted just by what you've done. And I think it's  
16 important for you to understand why they're so upset  
17 because it's not just their information. It's also the  
18 safety issues that have now been put in place.

19 Now, like I said, I can tell that you're  
20 upset and I can tell that you've been through a lot.  
21 And your frustration doesn't just emanate from the last  
22 week. It emanates all the way from the time that you  
23 were an employee with Tesla. And I -- you know, I get  
24 it. You're upset. You feel wronged. You feel, again,  
25 I think -- and I'm putting words in your mouth maybe,

1 but just go with me on this. I get the impression that  
2 no one has really been listening to you; that you aren't  
3 being heard; that your clients -- or your attorneys  
4 aren't really listening to what you want and how you  
5 want this case to proceed. And as a result of that, I  
6 don't know what happened over the weekend that finally  
7 blew up, but something blew up.

8 And so I want to take an approach with this  
9 case a little different than what most judges would do.  
10 I think most judges would simply be sitting here and  
11 talking about what kind of sanctions and what we're  
12 going to do and how we're going to make all this go  
13 away. But, I want to do something a little different  
14 today. And I'm going to ask everybody to go with me on  
15 this.

16 I think it makes sense for us to have a  
17 little impromptu settlement conference right now and I'm  
18 going to ask everybody if they're okay with me meeting  
19 with you privately, and meeting with Tesla privately,  
20 to discuss whether or not we should setup a settlement  
21 conference to, at the very minimum, to try to resolve  
22 the issues that are going on right now with the  
23 emergency Protective Order issues.

24 So, do you have any objection to that, sir?

25 MR. TRIPP: No, I don't.

1 THE COURT: Okay.

2 Mr. Spiro.

3 MR. SPIRO: No, Your Honor. No objection.

4 THE COURT: Okay.

5 So, what we're going to do is we're going  
6 to go off the record and I'm going to move everybody on  
7 will Zoom call into separate Zoom rooms, and I'm going  
8 to talk to you: And I'll talk to you privately. And  
9 we're going to talk about whether or not we can, at  
10 least, reach some sort of settlement or agreement on  
11 what the status quo is going to be in this case, or  
12 whether or not we can reach even a settlement of the  
13 case, potentially. Maybe not today, but maybe setup a  
14 time that we can do that.

15 So the way that this normally works,  
16 Mr. Tripp, is I normally start with the plaintiffs in  
17 a case. And in this case, that is Tesla. So, I want  
18 you just to be patient with me. I'm going to spend a  
19 little time with them, but then I'm going to spend some  
20 time with you, but know that I'm going to hear you. I'm  
21 going to listen to you. And I'm going to take some time  
22 today to try to figure out how we can make this right.

23 Do you have any questions about that?

24 MR. TRIPP: No. I appreciate that,

25 Your Honor.

1 THE COURT: Okay. Thank you all so much.

2 So, with that, we're going to go off the  
3 record and we're going to move everybody into their Zoom  
4 rooms, so just be patient with me and I'll be with you  
5 in just a moment.

6 Mr. Fischbach and Mr. Mitchell, do you want  
7 to stick around for that or would you like to be in your  
8 own room or how do you want to roll?

9 UNIDENTIFIED SPEAKER: No, judge, I think  
10 it's appropriate for us to go off the call at this  
11 point. If for any reason the Court needs to reach us,  
12 both Mr. Mitchell and I are here in our office.

13 THE COURT: Okay. Well, I want to,  
14 first off, before we get off the phone -- and I know,  
15 Mr. Tripp, you have some disagreements with your  
16 counsel, and I have said this on the record before,  
17 but I want to tell Mr. Fischbach and Mr. Mitchell, you  
18 have been consummate professionals in this case. I very  
19 much enjoyed having you practice in front of me. Um,  
20 thank you so much for all of what you've done. You've  
21 made this case quite enjoyable in terms of -- you know,  
22 normally, attorneys, especially in a case like this and  
23 this complexity, can be very difficult with one another.  
24 And so thank you very much for the professionalism that  
25 you showed while you were working on this case. And

1 with that, I wish you the best. And if you're ever back  
2 in Reno, I hope you appear in front of me again.

3 And so with that, let's get started.

4 (Off the record.)

5 THE CLERK: In the matter of Tesla, Inc.  
6 versus Martin Tripp, court is again in session.

7 THE COURT: Okay. Well, I guess it's still  
8 good evening, maybe good afternoon for some of you.  
9 It's still morning here for me. But, I am pleased to  
10 announce that we did have some informal settlement  
11 discussions about the ongoing emergency motions that  
12 have been filed on behalf of Tesla related to the  
13 violations of the Protective Order in this case, and  
14 there has been an agreement that has been reached. So  
15 what we're going to do at this point is we're going to  
16 put some material terms on the record related to that  
17 conclusion.

18 So, Mr. Tripp, for the first part, what I  
19 need to do is I need to verify on the record some  
20 different factual contentions.

21 So, Mr. Tripp, it's alleged that starting  
22 over the weekend, I believe it was on August 7, that  
23 you did begin uploading information that was, um,  
24 subject to a confidential Protective Order, and that you  
25 did that knowingly and willfully.

1 Is that correct, sir?

2 MR. TRIPP: Your Honor, that is correct.

3 THE COURT: Okay.

4 And, that you continued to do that even  
5 after I entered a second Order earlier this week,  
6 where you continued to willfully and knowingly upload  
7 information that you had been ordered not to upload  
8 related to this litigation.

9 Is that correct, sir.

10 MR. TRIPP: That is correct.

11 THE COURT: And in light of that, you are  
12 willing to, um, incur a sanction, um, from the Court  
13 related to that, um, in terms of your knowing and  
14 willful violation of the Court's Protective Order and  
15 its subsequent Order related to the confidentiality of  
16 certain documents.

17 Is that correct, sir?

18 MR. TRIPP: That is correct.

19 THE COURT: Okay. And so the -- this is  
20 what you've agreed to in the follows: You've agreed  
21 to pay \$25,000 in attorneys' fees to Tesla for the cost  
22 that they had to incur to, um, either -- not only in  
23 communicating with you and your counsel to have these  
24 documents removed, but also in having to file motions,  
25 as well as appear for hearings related to these

1 violations of the Protective Order and the Court's  
2 subsequent Order.

3 Is that correct, sir?

4 MR. TRIPP: That is correct.

5 THE COURT: And that you will pay that money  
6 within 60 days?

7 MR. TRIPP: I will try.

8 THE COURT: Okay. And if you're unable to  
9 do that, you will contact Mr. Spiro and we will discuss  
10 how we can, uh, address that issue in 60 days time.

11 Is that correct?

12 MR. TRIPP: That is correct.

13 THE COURT: Okay.

14 You've also agreed that you will not  
15 re-upload or re-post any of this information through  
16 any means or mechanism; through the internet, through  
17 e-mails, or through any other communications. Sir,  
18 that would also include printing out copies and mailing  
19 it to anybody.

20 So, in other words, you're agreeing not to  
21 disclose anything that is subject to the confidential  
22 Protective Order in this case. And should you do that  
23 or become -- anybody becomes aware of that, you will  
24 incur a \$500 per day violation for, again, violating the  
25 Court's protective Order, as well as violating the terms



1 of this particular settlement agreement.

2 Do you understand that, sir?

3 MR. TRIPP: Yes, I do.

4 THE COURT: But you will also take all  
5 efforts to remove and take down any links, any postings,  
6 or any other means or mechanisms that third parties  
7 can access these documents, uh, including whether  
8 it's on any type of Cloud based storage, Google Drive,  
9 PlainSite, OneDrive, that you will -- Dropbox -- you  
10 will remove any links on Facebook, Twitter or YouTube.  
11 Um, and you will also not e-mail or otherwise make  
12 these things available in any other way. And if there's  
13 any sites that I did not mention, that you will take  
14 every effort to remove anything that has been improperly  
15 uploaded at this point.

16 Do you agree to that, sir?

17 MR. TRIPP: With the exception of PlainSite,  
18 because I have no ability to upload or download anything  
19 to or from there, I agree.

20 THE COURT: Okay. Well, to -- what I want  
21 to make clear is that even though I might be mentioning  
22 specific websites, it is not limited to those websites.  
23 It's any website, or any other location where you have  
24 uploaded these documents, that you're going to take  
25 every effort to take them down. So, that's really more

1 of the intent of what I'm saying here.

2 Do you understand that?

3 MR. TRIPP: Yes, Your Honor. If I uploaded  
4 those documents, I will have them removed.

5 THE COURT: Okay. All right.

6 MR. TRIPP: I will remove them.

7 THE COURT: All right. Thank you.

8 And, that within seven days, you will file a  
9 Notice of Compliance with the Court and you will detail  
10 all of the steps that you took to remove the documents  
11 from the different websites, correct?

12 MR. TRIPP: That is correct.

13 THE COURT: Okay.

14 And, also that you agree that you will  
15 not make anymore reference or description to anybody,  
16 whether it be in person, whether it be over the phone,  
17 whether it be an e-mail, or any other website, about  
18 "the attorney eyes only" documents that you have  
19 previously described, also in violation of the  
20 Protective Order.

21 You agree to do that, correct, sir?

22 MR. TRIPP: That's correct. I agree.

23 THE COURT: Okay.

24 All right. And again, that would also be  
25 subject to that \$500 a day violation. So if you go on

1     Twitter and you print a description about a document,  
2     that, too, will trigger that \$500.

3             Do you understand that, sir?

4             MR. TRIPP: I do.

5             THE COURT: Okay.

6             All right. Do you have any questions or is  
7     there anything about the terms that I've just put on the  
8     record that are inaccurate or that I need to correct,  
9     sir?

10            MR. TRIPP: No.

11            THE COURT: Mr. Spiro?

12            Oh. You're on mute.

13            MR. SPIRO: Yes, Your Honor. Those terms,  
14     uh, in terms of sanctions for the finding are, um,  
15     permissible on our side. And we thank the Court for  
16     it's time this morning.

17            The only other thing I would just note for  
18     the record because there was, uh, a moment of exchange  
19     about it and I just want to make it clear, is that, um,  
20     Mr. Tripp currently, as far as we understand, has that  
21     amount of funds in his GoFundMe page, and we just wanted  
22     to, since we've been discussing it this morning, just  
23     put that on the record that we're aware of that fact.

24            THE COURT: Uh, Mr. Tripp has indicated to  
25     me that those funds are no longer available. Um, but --

1 so those funds have been paid out in other ways. Um,  
2 but the purpose of the 60-day time frame is that if  
3 there is anymore money that is taken into that account,  
4 or if there is any financier behind his litigation  
5 costs, that he will make that payment to you.

6 Okay?

7 MR. SPIRO: I understand the Court.

8 THE COURT: Okay. All right. Perfect.

9 MR. SPIRO: Thank you.

10 THE COURT: Mr. Tripp, are there any other  
11 questions or concerns or things that you would like to  
12 place on the record, sir, before we conclude here today?

13 MR. TRIPP: No, Your Honor. I really  
14 appreciate your time.

15 THE COURT: Okay. Thank you so much, sir.

16 Mr. Spiro, anything on behalf of the  
17 plaintiffs?

18 MR. SPIRO: No, Your Honor.

19 THE COURT: Okay.

20 I want to thank everybody today for their  
21 professionalism and for working with me and taking a  
22 little bit of an unorthodox approach to address this. I  
23 appreciate all your time. I very much appreciated being  
24 able to speak with all of you.

25 And with that, motion number 207 is granted

1 based on the terms that I've already placed on the  
2 record. I do make a finding that Mr. Tripp did  
3 willfully and knowingly violate the terms of the Court's  
4 Protective Order, as well as its subsequent Order on  
5 Tuesday, I believe it was August 11th, um, of this year;  
6 and that the sanctions that are being imposed pursuant  
7 to this agreement are appropriate and sufficient under  
8 Rule 37(b)(2), as well as the inherent power of the  
9 Court to enforce its own orders. And, therefore, that  
10 will be the sanction in this case.

11 And as I've already indicated, should there  
12 be any more violations, the sanction will result in a  
13 \$500 per-day violation for any additional violations  
14 of the Court's Protective Order.

15 With that, we will be in recess.

16 Thank you all so much and have a wonderful  
17 day.

18 UNIDENTIFIED SPEAKER: Thank you.

19 UNIDENTIFIED SPEAKER: Thank you.

20

21 (Court Adjourned.)

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I certify that the foregoing is a correct  
transcript from the record of proceedings  
in the above-entitled matter.

\s\ Kathryn M. French

August 28, 2020

KATHRYN M. FRENCH, RPR, CCR  
Official Reporter

DATE